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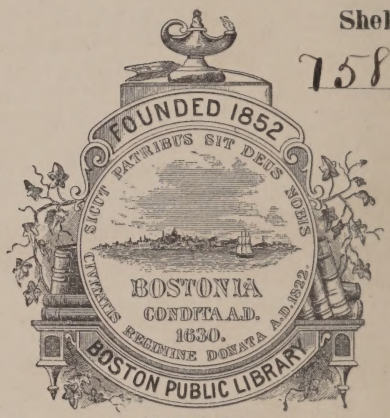

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LETTER

FROM

AN AGED AND A RETIRED CITIZEN OF BOSTON

TO A

MEMBER OF THE HOUSE OF REPRESENTATIVES OF MASSACHUSETTS,

ON

COERCIVE MEASURES

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IN

AID OF TEMPERANCE.

By Harrison Gray Otis,
Mr. Greenough says —.
——— Aug. 16. 76.
7. B. P.

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H. H. Greenough
Aug. 16, 1876.

LETTER.

TO WILLIAM HAYDEN, ESQ.,
Member of the House of Representatives of Massachusetts.

BOSTON, *April 8th*, 1848.

DEAR SIR:

You are no stranger to the fact, that I have long regarded with deep interest the temperance movement in this State. I admit that it has occasioned the most salutary reform in the moral habits of society that the world has ever witnessed; and I have contributed to its progress by all the means in my power, so long as it was confined to its legitimate object. This, in fact, ought to be considered *simply* as a "*call to the unconverted*," in view of fixing the attention of the individual upon the unsuspected dangers of his own habits, and of displaying the insidious and ruinous temptations to which he is exposed, by precept and example. But I am nearly discouraged, in perceiving that the leaders of this reform—yielding to the propensity of all reformers, except his who "left an example that we should follow his steps"—have adopted a system of coercion instead of persuasion, and attempt to compel the consciences of men by stretching the laws beyond the stringency of the old blue laws of our forefathers. This I lament, not merely because it is wrong in itself, but because it inevitably leads to a reaction that will leave matters worse than they were before the tem-

perance flag was unfurled. Laws which stigmatize lawful or innocent actions with the brand of crime, which multiply penalties, which require for their enforcement the base auxiliaries of spies and informers, which encourage confederates for the sake of procuring witnesses, which lumber the tables of grand juries with indictments; which, in a word, are against *the grain* of great masses of the people—are proverbially curses instead of blessings, and will not be endured by a free people. Of this description were the laws of France, prohibiting the citizens from eating and drinking when and where they pleased. These have subverted the throne, and shaken the foundations of the State. The consequences here may not be quite as serious, but the cases are analogous. They will provoke the same feelings and the same resistance, in kind though not in degree. The extreme right will be supplanted by the extreme left: the tee-totalers by the wine-bibbers; the saints by the publicans and sinners; and all restraints upon the traffic in spirituous liquors will be swept away. Men will not, in this age, submit to be scolded, reviled, or whipped into the observance of sumptuary laws. They will sooner break their chains than permit others to break their glasses. The "padlock" of the reformers should be placed on the "mind" of the purchaser, and not upon the door of the vendor. This is manifest to all who open their eyes to the signs of the times. In the State of New York, the fever of reform, caught here, prevailed in all quarters, and legislation was busy in preventing licensed houses. But the last year, the Legislature, after great deliberation and satisfactory experience of the mistake of their predecessors, repealed their act. In Vermont, it is stated that the people, by an immense

majority of three thousand, declared against the license system. This year, that majority is said to be reduced to one third. In our State, it is not to be doubted that opposition to the system has increased and is increasing. Many are restrained from open demonstration of hostility, by reluctance to be classed with the intemperate—many by hypocrisy—many by a nervous temperament, the fear of calumny and of hard names. Meanwhile, a strong sympathy is created with those who, having been bred to a vocation which the laws allowed, and embarked their capital in it, are threatened with deprivation of their means of subsistence, and denounced as bad members of society. All these are brooding over their discontent, and preparing, some of them unconsciously, to combine with any party, in putting down those who deny them the exercise of the most natural of rights —of appeasing thirst by the choice of their own potations—and who, by forcing all to drink water, would prevent many from gaining their bread.

It is the undisguised object of the prominent reformers, to procure the enactment of such new laws, or to countenance such construction of the old laws, as will, in effect, amount to *a total prohibition* of the sale of spirituous liquors, and of consequence to prevent their consumption—at least, to confine it to *a privileged aristocracy* of those who can afford to buy and "drink a hogshead out." This object is, in other words, *to regulate the diet of the people*, by investing a majority with the power to control the economy of private families, through the aid of the legislative or municipal authorities, or a concurrence of both. A claim so extravagant, oppressive, and in fact absurd, cannot have been viewed in its true light by many worthy persons whose zeal is the cause of, and may

be the excuse for, overlooking first principles, and unwarily adopting the doctrine that the end justifies the means. If, prior to the reform movement, the question had been propounded to these worthy persons—Does it consist with the nature of the social compact that one portion of the community should prescribe to another what they shall eat or what they shall drink, either by legislative acts, indignation meetings, brow-beating, maledictions, or otherwise? they would have laughed *the notion* to scorn. But there is no monster of "mien so hideous," that will not appear an angel of light, when robed like the "veiled prophet." The maxim that the majority must govern, is the veil thrown over this monstrous claim—a maxim of *universal* application to the *political* relations of a free people, but of *very limited* application to their *social* condition. Certainly, it cannot with justice be made to bear upon the actions of families or individuals, except so far as they are criminal *in themselves*, or affect *directly* the public health, peace, or morals. To transgress this limit, is to go to sea without chart or compass. No *principle* can be suggested, which discriminates the right to control a man's potations, and not his food. For the above objects of public policy—and for none other—the sale of spirituous liquors may be limited to particular locations, and confined to men of approved character; so may the sale of beef and mutton. Grog shops are not more lawfully under the control of legislation than shambles. Both may be regulated, with a *bona fide* view to the prevention of nuisances. Neither can be rightfully *prohibited;* and laws which, under the pretext of *regulation*, aim at *total suppression*, are legislative evasions; in homely phrase, "Yankee tricks," "whipping the devil round the

stump," and quite below the dignity of our political fathers.

Another view of the subject. The best definition of liberty perhaps is, the faculty of doing what the laws permit; and the most wretched condition of slavery is proverbially that in which the laws are uncertain or unknown. They are *both*, when made to conflict with each other. The laws of the United States admit the importation of spirituous liquors, and raise revenue from it. This inevitably involves the right to sell the imported article, in virtue of the supreme law of the land; subject only to laws of the States made for *regulation of their domestic police.* This power to regulate is *partial*, and must be consistent with the paramount *general* power to import and sell. It is an exception which should be so construed as to stand with the rule. But to convert the exception into the rule, is to bring the law of the State into conflict with the supreme laws of the Union. Thus, while these supreme laws permit a particular traffic, and the United States participate in its profits by filling their treasury, the laws of an inferior jurisdiction, according to modern construction, condemn the traffic, and doom its agents to fine and imprisonment. This construction of the State law by the municipal authorities—reposing upon legislative countenance—whereby they assume to withhold *all licenses*, and thus substantially interdict *all sales* and all consumption, at their discretion, is a huge pretension, at variance with the uniform procedure of our ancestors, ever since the first settlement of the country. It is not less repugnant to the principles of a free government, whose laws should be equally applicable to all the citizens, irrespective of their habitancy. But as the license laws are administered—with the countenance of the Leg-

islature—the citizens of one town are subject to one law, and the citizens of an adjacent town to another. In one they may sell with impunity—in the other they may be sent to the House of Correction. All are liable to annual vicissitude and changes of position, from the grog shop to the prison and back again, at the will or whim of a bare majority of aldermen or commissioners which may chance to be of the teetotal or free trade school, or one of whom may happen to be absent when the question, "to drink or not to drink," is taken, after argument by counsel learned in the law. Thus it may happen that the unlicensed seller in Boston may be this year doomed to the House of Correction, and before his term of confinement expires, forty others may be pursuing the same trade under licenses from another board of aldermen. Again, the Supreme Court, sitting in Middlesex, may confirm a judgment rendered in Suffolk against a seller of wine, and while he is suffering in prison, may order their own wine from a licensed retailer, without any violation of law or decorum. Thus, the character of crime is to depend on the demarcation of town lines. These incongruities ought to suffice to demonstrate this arrogation of power to be a flagrant usurpation. If the Legislature cannot, by its own act, stop all sales, much less can it invest the municipal government with any such powers. The right to interdict a trade, if it existed in the Legislature, must be *a unit*, and unalienable. All that can be delegated is, not the *power itself*, but the authority *to execute* the statute. The law decides that licenses *may* be granted by subordinate authorities. All laws are intended to have effect; but this object is frustrated, when those who are entrusted with their execution refuse to act. They, in such

cases, become legislators and repealers. They resolve that licenses *may not* be granted; and, when such refusal becomes universal, which it is the object of some legislators to make it, the law itself becomes a dead-letter on the statute book. The true and manly course, for the advocates of these anomalies, would be to move, in plain terms, for a prohibition to *drink* wine or spirits, and to enforce penalties against the *drinkers*, who are the parties at fault. There is certainly nothing wrong, *in itself*, in the sale of spirits. The mere sale of a bottle of wine is not, *intrinsically*, worse than the sale of a Bible. There is nothing good or bad in either act. The whole fault consists *in the drinking.* If this is wrong in a citizen of Massachusetts, it must be equally so in those who come within our jurisdiction from other States and countries. It would be fair, however, to warn these against coming hither to banquets or other symposia. They might otherwise be misled; as, in the public papers, a few months since, Judge Story's wine was advertised for sale, as having been especially imported for the use of the Judges of the Supreme Court of the United States; and, in the same papers, was to be seen a notice of the lectures of Mr. Gough, the reformed drunkard.

It seems that a bill has lately been reported to the House of Representatives, imposing prohibitions upon the sale of spirituous liquors, but excepting from its penalties sales for *sacramental* purposes. This presents an effort to blend and reconcile a divine injunction with a secular prohibition, that would seem to be of a revolting and irreverent character to those who do not justly appreciate the good intentions of its movers. It conclusively implies that our blessed Saviour, in his last mournful and heart-breaking in-

terview with his disciples, consecrated, by his example and command, a libation proper to be used always in celebration of his memory, but deserving to be eschewed on other occasions, as a curse and poison to mankind. And can it be imagined that, when, in connection with this sublime solemnity, he declares, "I will not drink henceforth of this fruit of the vine, until that day when I drink it new with you in my Father's kingdom," he would have chosen to allegorize his celestial occupation, by an allusion to a worldly malpractice? That persons with this impression can feel themselves edified by a participation of the consecrated elements, is quite beyond my comprehension. The Saviour was entirely familiar with the numerous instances in which excessive indulgence in strong drinks is held up as an abomination in the Old Testament from the days of Noah, and certainly could have regarded it in no better light. But the first miracle, and other facts in his history, demonstrate that he did not hold the abuse of any of the gifts of Providence by some, as conclusive against their moderate use by others. He well knew our human proclivity to the abuse of all the appetites and passions. But his instruments of reform were sermons and parables, and example. And his servant, Saint Paul, in conformity, says to the Colossians, "Let no man judge you in meat or in drink."

In a word, my dear sir, I must believe that the sooner we revert to the old usages of the Bay State, the happier it will be for all. It is devoutly to be wished that our Legislature, reposing upon its known abhorrence of the vice of intemperance, and its manifold protestations against it, may pause in their attempt to reach by legislation what is unattainable, and which will only develope the worst feature of a

bad government — *ill humor among the people at large.* Let them leave the rest to the teachings of example, to the temperance societies, and to Father Matthew. This worthy person may be expected to display, in more graphic colors than Hogarth, the contrast between "beer street and gin lane," and the advantages of "water street" over both; and all good members of society will second his efforts.

I venture to make these suggestions to you, and to place them at your disposal. With an experience in the legislation of Massachusetts, equal, I believe, to that of any living person, I have an abiding conviction that I have never witnessed any attempt to legislate, so adverse *to the rights of man*, as some which are made in our General Court, respecting the subject of temperance. They are a prelude to a system of sumptuary laws, which, if not resisted, will become a substitute for family government. Somebody ought to speak out, in opposition to this course. Somebody, who has no personal interest, and no friend or connexion interested in the result—who drinks but little, who was never in the habit of drinking much, and who has no occasion to recur to a vendor of spirituous liquors to replenish his stock. I do not add my name, not presuming that it can have much influence with the generation that has grown up since I have become dead to the busy world; but, if any of your friends have the curiosity to know whether the writer comes fairly within the above category, you are at liberty to mention it.

I am, very faithfully and respectfully,

Your old friend,

ANTIQUARY.

Boston, April 7, 1848.